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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,612	09/04/2001	Ronald J. Boser		1322

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EXAMINER

HALE, GLORIA M

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 03/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. <b>09/944,612</b>	Applicant(s) <b>Boser</b>
	Examiner <b>Gloria Hale</b>	Art Unit <b>3765</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1)  Responsive to communication(s) filed on \_\_\_\_\_.
- 2a)  This action is FINAL.      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

#### Disposition of Claims

- 4)  Claim(s) 1 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.
- 12)  The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- 13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

15) <input type="checkbox"/> Notice of References Cited (PTO-892)	18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____	20) <input type="checkbox"/> Other: _____

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fairbanks et al.

In regard to claim 1 Fairbanks et al discloses a bra (10) with bust pockets (cups 12,13) and fastener (21), and underwire (30) in a sheath (25) with matching fastener components (26) for selectively attaching the sheath encased underwire onto the bra to provide support to the wearer as desired. Fairbanks et al discloses the fastener as being complementary snaps and also that any other known fastener means can be substituted for the snaps. (See fairbanks et al., cols. 3-4 and figures 1-5).

The Examiner takes Official Notice that it is well known to substitute different types of fasteners for each other such as snaps for hook and loop fasteners and vice versa for greater ease in fastening and comfort to the wearer. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the bra of Fairbanks to use other fasteners such as adhesives or hook and loop fasteners for greater ease in fastening and unfastening the components together and for increased comfort to the wearer.

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It is noted that Fairbanks et al discloses the optional use of wearing the bra with or without the underwire. Support is found in Col. 1, lines 3-7, 40-43 and col. 2 lines 1-10. One of ordinary skill in the art would know the proper placement of the hook and loop material on the bra and the underwire attachment. It is well known that the hook portion of a hook and loop fastener component would irritate the skin of a user if the hook portion contacts the skin. Therefore, one of ordinary skill in the art would know to place the loop portion on the garment portion that faces the skin of the wearer when substituting the snap components of the bra. Additionally, one would obviously substitute the male portions (26) with the hook portion of a hook and loop fastener wherein a projecting hook would be considered the "male portion" of the fastener structure.

Applicant's remarks have been duly considered but are not convincing as indicated in the last paragraph above.

*Conclusion*

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria Hale whose telephone number is (703) 308-1282.



Gloria Hale

Patent examiner- AU 3765

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March 22, 2002